P-421/EM-93-405 ORDER APPROVING REVISED TARIFF AND REQUIRING INCOME NEUTRALITY

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm	Chair
Tom Burton	Commissioner
Marshall Johnson	Commissioner
Cynthia A. Kitlinski	Commissioner
Dee Knaak	Commissioner

In the Matter of U S West Communications, Inc. Introducing the Option for Interexchange Carriers to Self-Report the Percent Interstate Usage on Terminating Feature Group D Service

ISSUE DATE: February 22, 1994

DOCKET NO. P-421/EM-93-405

ORDER APPROVING REVISED TARIFF AND REQUIRING INCOME NEUTRALITY

PROCEDURAL HISTORY

On May 5, 1993, U S West Communications, Inc. (USWC) filed a proposal to allow interexchange carriers (IXCs) to self-report the percent interstate usage (PIU) for terminating feature group D (FG-D) service based on the IXC's records rather than using the USWC assumed minutes.

On September 29, 1993, the Minnesota Department of Public Service (the Department) filed its report and recommendations. The Department recommended that the Commission authorize USWC to permit the requested self-reporting. In addition, the Department recommended that the Commission require USWC to 1) file tariff language to make the self-reporting of PIU more reliable and 2) to reduce intrastate access rates to offset increased intrastate revenues resulting from the PIU filing, which went into effect May 26, 1993.

On October 18, 1993, USWC filed a letter disagreeing with the Department's recommendation regarding income neutrality. Subsequently, the Department filed an addendum to its report.

On January 18, 1994, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

A. Safeguards Around Self-Reporting

A local exchange carrier (LEC) bills interexchange carriers (IXCs) for each IXC call that originates from and each call that terminates in the LEC's exchange. The signaling information sent by interexchange carriers (IXCs) to LECs, however, does not contain information about the originating side of terminating calls, i.e. the IXC's signalling information does not tell the

LEC whether the call terminating in the LEC's exchange originated in-state or out-of-state. Whether a call originates in-state or out-of-state makes a difference because the LEC's terminating access rates for intrastate calls are higher than for interstate calls.

In the past, USWC (in its capacity as a LEC) has employed an assumption in billing the IXCs for these terminating access calls. USWC billed assuming that terminating access minutes were jurisdictionally identical to originating access minutes.

The IXCs, of course, do know both the originating and terminating points of each call in order to bill customers. Starting in September 23, 1991, therefore, USWC asked the IXCs to tell it (USWC) what percentage of the terminating access minutes was due to interstate usage. The figure requested of the IXCs by USWC is referred to as the percent interstate usage or PIU. The IXCs' reporting of the PIU to USWC is referred to as self-reporting.

The Department raised concerns that USWC's originally proposed tariff did not require sufficient information from the IXC to provide assurance that the self-reported PIU would be reasonable accurate. The concern about self-reported PIU is that IXCs may be tempted to reduce their costs by reporting excessive traffic in the jurisdiction with the lower rate.

Subsequently, however, USWC submitted a revised tariff to address the Department's accuracy concerns. The Department reviewed the revised tariff in Docket No. P-421/EM-93-1126 and states that the revised language satisfies the Department's concern. The Commission finds that the concerns about accurate reporting of PIU have been satisfactorily resolved in Docket No. P-421/EM-93-1126 and need not be addressed further in the present docket.

B. Income Neutrality

Implementation of the self-reporting tariff will increase USWC's intrastate revenue. Based on USWC's own projections, the Company will receive significant additional intrastate revenue as a result of this change.

The Commission finds that although the self-reporting tariff does not change USWC's rates, it represents a change that results in a significant revenue increase for the Company that should be offset by a reduction in intrastate access rates. The Commission rejects the Company's arguments 1) that income neutrality is inappropriate and 2) that if it is required the amount of offset should take into consideration the projected loss of interstate revenue. An analysis of the Company's position follows.

1. The Company's increased revenue is not an expense

USWC cited the Incentive Plan (Section D.5) for the proposition that no changes in rates shall be permitted to offset the increase or decrease of expenses. The Company then noted that the change it proposed was not a rate change but simply involved changed circumstances (improved measurement of PIU) in which the rate applies. The Company argued that requiring income neutrality was inappropriate because the change was "more like the situation when an expense changes", for which pass-throughs are prohibited.

The Company's argument is unpersuasive. First, the Commission does not find that the change in question is like an expense in any material respect. Second, speculation whether the change is "more like" an expense than a rate increase, as the Company asserts is unhelpful. The Incentive Plan and the Order approving it simply do not establish the restrictions on income neutrality that the Company asserts.[1]

The Incentive Plan Order did not address the situation presented in this case and does not serve as precedent for the propositions attributed to it by the Company, i.e. that income neutrality is only applicable to rate increases or decreases. The Commission retained discretion to look at the facts of each case and decide whether income neutrality is appropriate. In its Order accepting the Incentive Plan, the Commission stated:

> [I]ncome neutrality will often be appropriate in making miscellaneous rate adjustments over the course of the plan. Order at page 22.

In this case, the Commission notes that the Company has initiated an action (filed a tariff authorizing a certain practice) that will result in a substantial increase in the Company's intrastate revenue. In this respect, the Company's action is much like a rate increase.

Furthermore, in instances where the Company made a filing which **reduced** its income, it sought and received authority (during the operation of the Incentive Plan) to increase rates to achieve income neutrality. In Docket No. P-421/EM-93-477, the Commission approved the Company's proposal to increase basic long distance rates to offset a reduction from a new optional toll calling plan[2]. Likewise in Docket No. P-999/C-93-90, the Commission

---

[1] In the Matter of Northwestern Bell Telephone Company's, d/b/a U S West Communications, Proposed Incentive Regulation Plan, Docket No. P-421/EI-89-860, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER (June 7, 1990).

[2] In the Matter of U S West Communications, Inc.'s Proposal to 1) Introduce New Optional Calling Plans, 2) Introduce Toll Contract, 3) Consolidate and Replace Toll Mileage Bands and 4) Modify Other Existing Toll Services, Docket No. P-421/EM-93-477, ORDER, September 21, 1993.

approved the Company's proposal to increase the Company's directory rates to offset a reduction in the carrier common line charge resulting from a complaint initiated by AT&T.[3]

In these circumstances, the Commission finds that it would be unfair to ratepayers to allow USWC to experience this increase in intrastate revenues without instituting a corresponding decrease in access rates. In this case, therefore, the Commission will require that the Company be held income neutral.

2. Offsetting intrastate revenue increase with interstate revenue decreases is inappropriate; however, costs associated with the increased intrastate revenue should be deducted

USWC argued that if the Commission were to rule the Company must be held income neutral and decrease its access rates, the total decrease should be calculated on a company-wide basis. In other words, the increase experienced in intrastate revenues should be reduced by the amount of revenue to be lost in the interstate jurisdiction due to implementation of the self-reporting tariff.

Interstate revenues and operations are not within the Commission's jurisdiction and the amount by which self-reporting reduces interstate revenue is not the same amount by which intrastate costs are increased. The Commission, therefore, will reject USWC's specific proposal.

However, the amount of costs attributed to either the Company's interstate or the Company's intrastate revenues does rise and fall directly in proportion to the percentage of long-distance access revenues they receive. An increase in the intrastate percentage of PIU (and its associated revenue) does result in additional costs being allocated to the intrastate jurisdiction.

In pursuit of income neutrality, therefore, the Commission will direct that the Company to subtract the cost associated with the additional intrastate usage from increased intrastate revenue and to reduce intrastate access charges.

C. Adjustment Period Beginning May 26, 1993

Finally, to achieve complete income neutrality, the Commission must take into account the fact that the Company implemented its filing on May 26, 1993 and that, as a result, the Company has experienced increased intrastate income since that date.

---

[3] In the Matter of the Complaint of AT&T Communications of the Midwest Inc. Concerning Excessive Rates for Access Services Provided by U S West Communications, Inc., Docket No. P-421/C-90-1184, and In the Matter of the Commission Solicitation of Comments Regarding Access Charges, Docket No. P-999/C-93-90, ORDER APPROVING SETTLEMENT, REQUIRING NOTICE TO CUSTOMERS AND FILING OF TARIFFS, AND SOLICITING COMMENTS (February 16, 1993).

Therefore, the Commission will require the Company reduce its intrastate access charge to offset the following:

- the increased income it would receive in the future due to the implementation of self-reporting if access rates were not reduced

plus

- the increased income received due to the implementation of self-reporting between May 26, 1993 and the date on which rates used for the offset become effective.

ORDER

1. USWC's tariff allowing interexchange carriers (IXCs) to self-report the percentage interstate usage (PIU) on terminating feature group D service is approved.

2. Within 30 days of this Order, USWC shall submit proposed rates and tariffs to reduce its intrastate access charges to offset the increased intrastate income resulting from implementation of the tariff approved in Ordering Paragraph 1.

   The rate reduction shall offset the amount calculated as set forth in the text of this Order at page 5.

   The Company's filing shall include a proposed effective date for the rates, documentation showing the calculation of the proposed rates, and a proposed customer notice.

3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)